



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/611,905	07/07/2000	Bertram V. Burke	EPC-8C	7723

57593 7590 09/13/2006

BERTRAM V. BURKE
1434 SW 51ST LANE
CAPE CORAL, FL 33914

EXAMINER

SUBRAMANIAN, NARAYANSWAMY

ART UNIT	PAPER NUMBER
----------	--------------

3628

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/611,905		BURKE, BERTRAM V.	
	Examiner		Art Unit	
	Narayanswamy Subramanian		3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-31, 41, 43-51, 53, 55, 56 and 58-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-31, 41, 43-51, 53, 55, 56 and 58-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/12/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to applicants' communication filed on June 12, 2006. Amendments to claims 21, 23, 24, 26-29, 41, 43, 44, 46-49, 60-62 and 64-66 have been entered. Claims 21-31, 41, 43-51, 53, 55, 56 and 58-66 are currently pending and have been examined. The rejections and response to arguments are stated below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
3. Claims 21-31, 41, 43-51, 53, 55, 56 and 58-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 21 and 41 recite the limitation "transmitting the data that identifies the credit or debit amount" and "transmitting data representing a debit or credit back to the payee". It is not clear if these transmitted data are the same or are they different. If these data are different it is not clear as to what is the relationship between "transmitting data representing a debit or credit back to the payee" and the other steps of the claim. Hence the scope of the claim is not clear. It is also not clear if "data in a payor account" (in the preamble) is the same as "data associated with the payor account" in the body of the claim. The metes and bounds of this limitation are not clear. Claims 23-24 and 43-44 are also suffer from similar ambiguities making their scope unclear. Appropriate correction/clarification is required. Claims 22-31, 43-51, 53, 55, 56 and 58-66 are rejected by dependency on rejected independent claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 21-31, 41, 43-51, 53, 55, 56 and 58-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigari (US Patent 5,010,485).

Claim 21, Bigari teaches a computerized method of modifying data in a payor account from a financial transaction between a payor and a payee (See Bigari Abstract), comprising: entering data that identifies a credit or debit amount into a point of sale terminal controlled by the payee (See Bigari Abstract, claim 23 Column 16 lines 11-16); transmitting the data that identifies the credit or debit amount to a separate network controlled by other than the payee (See Bigari Abstract, claim 23 Column 16 lines 18-21), wherein the point of sale terminal accepts both credit and debit amounts (See Bigari Column 2 lines 1-5); within the separate network, within the separate network, modifying data associated with the payor account as a credit or debit based on the credit or debit amount (See Bigari Abstract, claim 23 Column 16 lines 41-44); receiving by the payee an amount of money based on the credit amount during the financial transaction (See Bigari Abstract, Column 2 lines 1-5 and Column 5 lines 9-26); and transmitting data representing a debit or credit back to the payee (See Bigari Abstract, claim 28). Bigari does not explicitly teach the step wherein the payor account is a voucher account. However this

limitation is interpreted as non-functional descriptive material because it does not in any way change the way the steps of the method are performed.

Claim 41, Bigari teaches a computerized method of modifying data in a payor account for a financial transaction using a point of sale terminal of a merchant (See Bigari Column 6 lines 5-25), said method comprising: entering data that identifies a credit or debit amount into a point of sale terminal that receives data concerning a payor's transaction with the merchant, said point of sale terminal being controlled by the merchant (See Bigari Abstract, claim 23, Column 16 lines 11-16) wherein the point of sale terminal accepts both credit and debit amounts (See Bigari Col 2 lines 1-5); transmitting the data that identifies the credit or debit amount to a separate network (See Bigari Abstract, claim 23 Column 16 lines 18-21); within the separate network, modifying the data associated with the payor account as a credit or debit based on the credit or debit account (See Bigari Abstract, claim 23 Column 16 lines 41-44); transferring an amount of money based on the credit amount to the merchant during the financial transaction (See Bigari Abstract, Column 2 lines 1-5 and Column 5 lines 9-26); and transmitting data representing a debit or credit back to the merchant (See Bigari Abstract, claim 28). Bigari does not explicitly teach the step wherein the payor account is a surplus account. However this limitation is interpreted as non-functional descriptive material because it does not in any way change the way the steps of the method are performed.

Claim 22, Bigari teaches the step wherein said entering of data occurs at a point of sale (See Bigari Column 10 lines 11-19).

Claims 23 and 43, the step wherein the transmitting of data that represents a credit or debit amount is performed after each entering step is old and well known in the art. This step helps a user correct errors before proceeding to the next step.

Claims 24 and 44, Bigari teaches the step wherein the transmitting of data that represents a credit or debit amount is performed after a plurality of entering steps (See Bigari claim 36).

Claims 25 and 45, Bigari teaches the step wherein the payor account is one of a plurality of payor accounts, and wherein the step of modifying the data includes selecting the one or more payor accounts based on instructions that are entered in the system by said payor and that accompany the entering of data (See Bigari claim 36, family of charge cards implies plurality of accounts).

Claims 26 and 46, Bigari teaches the step wherein said transmitting of the data that represents a credit or debit amount is performed by the payee, and the modifying and transmitting of data to the payee are performed outside the control of the payee (See Bigari Column 2 lines 42-52)

Claims 27 and 47, Bigari teaches the step wherein said entering and transmitting of the data that represents a credit or debit amount are performed by the payor, and the modifying and transmitting of data to the payee are performed by a third party other than the payee (See Bigari Abstract).

Claims 28 and 48, Bigari teaches the step wherein the point of sale terminal handles both data and cash (See Bigari Column 11 lines 29-45).

Claims 29 and 49, Bigari teaches the step wherein entering the data includes first entering data that identifies a credit amount into a payor account at the point of sale terminal; at a later

time entering data that identifies a debit amount into a point of sale terminal (See Bigari Column 2 lines 58-67 and Column 11 lines 19-65).

Claims 30 and 50, Bigari teaches the step wherein said payor account is an existing payor account (See Bigari Column 1 lines 24-29).

Claims 31 and 51, Bigari teaches the step wherein entering the data into a payor account occurs at multiple unrelated payees with multiple payee accounts (See Bigari Column 2 lines 13-19).

Claim 53 the step of printing a receipt for the payor concerning an overall balance in the payor account is old and well known. For instance after an ATM transaction, the receipt provides information about the transaction amount and the balance in the account.

Claims 55 and 56, Bigari teaches the step wherein the step of entering includes specifying whether the modifying of data in a payor account is a credit or debit (See Bigari Abstract and Column 1 line 65 - Column 2 line 5).

Claims 58 and 59, Bigari teaches the step wherein the step of entering includes specifying that the modifying of data in a payor account is a debit (See Bigari Abstract and Column 1 line 65 - Column 2 line 5).

Claim 60, Bigari teaches the step wherein the payor account is a default account (Inherent in Bigari's disclosure; an account read from a credit card is a default account).

Claim 61, Bigari teaches the step comprising identifying the payor with a PIN number (See Bigari Column 1 line 65 - Column 2 line 5, PIN number is well known in debit card usage).

Claims 62-63, Bigari teaches the step comprising identifying the payor electromagnetically using a sensor responsive to electromagnetic radiation (See Bigari Column 7 lines 1-9) wherein said sensor uses a bar code reader (old and well known).

Claims 64 and 65, Bigari teaches the step wherein the step of entering data comprises reading magnetic signals with a sensor responsive to magnetic signals (See Bigari Column 7 lines 1-9) and wherein the step of entering a data comprises reading magnetic signals from a smart card (See Bigari Column 1 line 30 - Column 2 line 5 and Column 4 lines 1-5; charge cards are interpreted to include a smart card).

Claim 66, Bigari teaches the step wherein entering data comprises reading a credit or debit card (See Bigari Column 1 line 30 - Column 2 line 5 and Column 4 lines 1-5).

Response to Arguments

6. Applicant's arguments with respect to pending claims have been considered but are not persuasive.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


Art Unit: 3628

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sub Sough can be reached at (571) 272-6799. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dr. N. Subramanian *N S*
August 30, 2006


FRANTZY POINVIL
PRIMARY EXAMINER
Au 3628